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To the Graduate Council:

I am submitting herewith a thesis written by Joseph Henry Carignan entitled "Alfonso X: A Medieval, Castilian Emperor?." I have examined the final electronic copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

Thomas Burman, Major Professor

We have read this thesis and recommend its acceptance:

Robert Bast, Jeri McIntosh

Accepted for the Council:

Dixie L. Thompson

Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

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Accepted for the Council:

Linda Painter
Interim Dean of Graduate Studies

(Original signatures are on file with official student records.)

ALFONSO X: A MEDIEVAL, CASTILIAN EMPEROR?

A Thesis
Presented for the
Master of Arts
Degree
The University of Tennessee, Knoxville

Joseph Henry Carignan
May 2007

DEDICATION

This thesis is dedicated to my wife, whose patience, understanding, and support gave me the opportunity to earn this degree; my mother, whose support heavily influenced my love of history and whose unceasing sarcasm kept my life in perspective; and Dr. Thomas Burman, who continued to mentor and inspire me even after I admitted I would not pursue a Ph.D, and loaned me dozens of books that would have taken years to get from the library.

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I wish to thank all those who helped me complete my Master of Arts degree in History. Dr. Burman introduced me to medieval Spanish history and mentored me throughout my time at the university. Dr. Bast provided numerous helpful suggestions and insight not only into my thesis, but also into the historical profession. Dr. McIntosh corresponded with me about my thesis even while on vacation, and agreed to serve on my committee the very day I met her.

I must also thank my fellow graduate students, who were always both helpful and inspiring colleagues. I learned as much from them as I did from my professors.

Abstract

The purpose of this thesis was to examine the *Siete Partidas* of Alfonso X of Castile in the context of two historiographical assertions: that Alfonso was a revolutionary monarch who consciously anticipated the developments surrounding the rise of the nation-state, and that the *Siete Partidas* represent a mere compilation of older legal traditions with little creative manipulation by Alfonso. To test these assertions, I selected three samples of the legal code and analyzed the extent to which they conformed to these historiographical claims.

My analysis concluded that these sections of the *Siete Partidas* do not support the prevailing historiographical assertions about both Alfonso and the *Siete Partidas*. Rather, these sections of the code suggest that Alfonso was as much a medieval ruler, deeply concerned with the particular situation of thirteenth-century Castile, as he was a visionary anticipating a centralized Castilian nation-state. As a result, my thesis suggests that a reinterpretation of Alfonso X's character may be in order. At least in these sections of the *Siete Partidas*, the traditional perspective of Alfonso X does not seem valid, and a deeper analysis seems warranted.

TABLE OF CONTENTS

Introduction	1
Chapter 1: Historiographical Background and Sources	5
Chapter 2: The Legal Terminology	16
Chapter 3: The Relationship with the Church	25
Chapter 4: Religious Minorities in Castile	35
Conclusion	50
Bibliography	54
Vita	60

Introduction

Generally, historians of Alfonso X and his most famous legal treatise, the *Siete Partidas*, have tended toward one of two extremes based on the nature of their research. Biographers of Alfonso X often focus on his visionary qualities and the aspects of his rule that seem remarkably modern and enlightened. Historians working primarily with the *Siete Partidas*, however, tend to emphasize the value of this legal code in terms of its compilation of ancient Roman and canon law into the Castilian vernacular. On the one hand, both of these scholarly traditions are accurate; with the possible exception of Frederick II, Alfonso X was a patron of literature and learning without parallel in his age. Also, the *Siete Partidas* extensively reproduce Roman and canon law, excerpting whole passages verbatim from earlier sources. In this thesis, I will argue that certain sections of the *Siete Partidas*¹ suggest to historians of Alfonso X a middle path between these historiographical extremes. In fact, there are numerous passages in the *Siete Partidas* that not only suggest Alfonso's concern with the practical governance of his medieval kingdom, but also suggest that the *Siete Partidas* are very much the product of the particularities of the Castilian situation.² In its description of its own terminology, in its presentation of the king's interactions with the church, and in its treatment of religious difference and matters related to Islam, sections of

¹ Because the *Siete Partidas* translates as the "Seven Parts," I will generally refer to the code in the plural.

² Much of my inspiration for this thesis comes from David Abulafia's exceptional biography of Frederick II. In *Frederick II: A Medieval Emperor*, Abulafia recontextualizes Frederick to provide a more useful overview of his reign. I have tried to use the *Siete Partidas* as a source through which I can suggest a similar recontextualization of Alfonso X.

the *Siete Partidas* appear to be as much a product of the Castilian situation in the thirteenth century as they appear to be a reflection of ancient law or a contribution to the modern era. These sections from the *Partidas*, therefore, imply that while Alfonso X was an intelligent, enlightened king, he was also a medieval, Castilian ruler.

In the interests of clarity, I will here attempt to describe my approach as briefly and cogently as possible. The *Siete Partidas* seem to create a historiographical contradiction for the historian, since the extreme generalizations about Alfonso X and the similarly extreme generalizations about the *Siete Partidas* contradict one another. The historiography of Alfonso X most often describes the “learned king” as a ruler far in advance of his time. Alfonso envisioned the formation of a modern nation-state in Iberia while facing dramatic opposition from squabbling nobility. As the patron of extensive cultural and artistic projects, Alfonso had no equal; he was practically a thirteenth-century Renaissance man. Unlike the approach of biographers, however, the historiography of the *Siete Partidas* presents them as magnificent but unoriginal. Unlike the forward-thinking Alfonso of his biographers, the Alfonso of the *Siete Partidas* looked to the past, compiling ancient legal traditions into a synthesis that, while a remarkable achievement, contained virtually no new concepts. In this thesis, I will use several sections from the *Siete Partidas* to suggest a possible resolution of this contradiction. By recontextualizing Alfonso X in light of the evidence the *Siete Partidas* provide, one can better understand both the *Partidas* and Alfonso himself. When one considers those sections of the *Siete Partidas* within their historical context, Alfonso also appears in his own historical context as a medieval ruler concerned neither with the distant future nor with the distant past, but with the practical problems and opportunities of his

thirteenth-century kingdom. From the perspective of the *Siete Partidas*, Alfonso X is as much a medieval and Castilian emperor as anything else.

To prove this claim, I have assembled evidence from three areas of the *Siete Partidas* that demonstrate Alfonso's concern with the particulars of his situation. In choosing this evidence, my goal is to select small "soundings" within the code that historians can best explain through reference to Alfonso X as a medieval ruler and as a Castilian king. While I do not intend to completely reject the earlier historiography on Alfonso, I attempt to point out areas in the *Siete Partidas* where the traditional historiography does not help explain the passages' content. That is, these "soundings" from the *Siete Partidas* do not make sense if one interprets them as the product of a visionary, enlightened king; similarly, they do not make sense if one views them as an unthinking recitation of earlier legal traditions. Only by recognizing Alfonso's medieval and Castilian character can one adequately explain the content of these sections of the *Siete Partidas*.

First, in describing the legal terminology employed in the *Siete Partidas*, I will show that in his attempt to create a unified law code for his realms, Alfonso had to reconcile ancient Roman and canon law with the longstanding and fiercely protected local legal traditions of the Iberian peninsula. Second, I will show how one can best explain Alfonso's ambivalent attitude toward the papacy, as expressed in the *Siete Partidas*, with reference to the historical situation of thirteenth-century Iberia. Alfonso's very real desire to create a stable, unified Castilian kingdom required him to adopt an authoritative position regarding royal authority, but his need for papal support for the *Reconquista* required him to fully support papal authority at the same time. Finally, I will consider the similarly ambivalent

attitude that Alfonso displays toward religious minorities in Castile. Unlike most other areas of Europe, medieval Castile included substantial subject populations of Jews (who had long lived under Muslim rule previously) and Muslims. Here also, the *Siete Partidas* reveal Alfonso to be very much concerned with his own particular situation in his treatment of religious minorities.

Chapter 1: Historiographical Background and Sources

Having described my approach, I will now turn to the historical background surrounding the *Siete Partidas*. The *Siete Partidas* represent the culmination of the legal scholarship patronized and directed by Alfonso X of Castile in the thirteenth century. The *Partidas* are the most striking Iberian example of what some historians consider to be a “juridical revolution” in Europe, lasting from approximately 1050 until 1350. The increasing complexity and sophistication of European society created a perceived need for similarly sophisticated law.³ For the foundations of that law, historians most often turned to the *Corpus iuris civilis* of Justinian. In their comprehensive scope, Alfonso’s law codes represent a similar attempt at codification with the aim of unifying the disparate legal traditions of Castile, Leon, and other newly conquered areas in the Iberian peninsula.⁴ Interestingly, the *Siete Partidas* are the third code of laws that Alfonso created in his reign, preceded by the *Especulo* (on which the *Siete Partidas* most closely depend) and the *Fuero Real* (the royal law). Created after Alfonso’s accession to control of the Holy Roman Empire, the *Partidas* are the latest and ostensibly the most universal of Alfonso’s law codes.⁵ However, unlike the *Especulo* and *Fuero Real*, the *Partidas* were never promulgated as law

³ Burns, Robert I., “The *Partidas*: Introduction,” in Burns, Robert I., ed., *Las Siete Partidas*, trans. Samuel Parsons Scott (Philadelphia: University of Pennsylvania Press, 2001), xiv-xv. For the sake of convenience, I will use the term “European” to refer to Christians in Christian-controlled territory in modern Europe, though obviously these people would not have readily identified themselves as “Europeans.”

⁴ O’Callaghan, Joseph, “Alfonso X and the *Partidas*,” in *The Siete Partidas*, 2001, xxx.

⁵ *Ibid.*, xxxiii-xxxv.

during or immediately after Alfonso's reign,⁶ and whatever influence they had in Castile quickly diminished in the face of opposition from both the aristocracy and urban populations.⁷ As I will discuss below, this comparative insignificance for thirteenth-century Castile may help explain scholars' reluctance to properly contextualize Alfonso X.⁸

Before discussing modern scholarly treatment of the *Partidas*, one should bear in mind one caveat: There are valid reasons for both extant historiographical extremes relating to the *Siete Partidas*. First, consider the older legal traditions on which the *Siete Partidas* depend. Like other thirteenth-century law codes, the *Siete Partidas* include significant parts of the Justinianic Code in the text. Other sources include canon law (particularly Gratian's *Decretum*), Iberian Visigothic codes, and Latin orators such as Cicero.⁹ Because of this incorporation of so much older law into the work, some historians tend to view the *Siete Partidas* as a compilation of Roman, canon, and feudal law that is comparable in some ways to Thomas Aquinas's theological *summa*.¹⁰ The value of the *Siete Partidas*, then, rests in its compilation of diverse legal traditions into a unified whole for Castile-Leon. Such extensive

⁶ Historians vehemently debate the influence of the *Siete Partidas* during the late thirteenth and early fourteenth centuries; the most generally accepted position is that the *Partidas* had significant advisory influence on Castilian law soon after their creation but that they did not acquire the formal force of law until 1358.

⁷ O'Callaghan, xxxix.

⁸ For information about the historiography of the *Siete Partidas* (besides what I will discuss below), one might also consult Craddock, Jerry R., "The *Partidas*: Bibliographical Notes," in *The Siete Partidas*.

⁹ *Ibid.*, xxxi..

¹⁰ *Ibid.*

use of earlier legal texts led to some complaint that the *Partidas* were unoriginal.¹¹

Responding to such criticism, one historian defended the value of the *Siete Partidas* while implicitly agreeing with that critique:

Such criticism [that the *Siete Partidas* are unoriginal] can be overlooked, for originality was not its purpose. The value of the *Siete Partidas* is that it gathered together the then known legalistic wisdom of the ages, especially the knowledge handed down from Rome's legists, and made it available in a vernacular tongue that could be read by those who knew no Latin.¹²

This analysis of Alfonso X found support from other scholars, as well.¹³ Though historians now find the *Siete Partidas* a source of more value than a simple compilation of older laws, this same assumption that the *Partidas* have little original content still appears in later, modern scholarship. In describing the Alfonsine histories, Charles Fraker emphasizes the value of the compiler regardless of original content.¹⁴ The general conception of the *Siete Partidas* as a compilation of older law codes without direct relevance for thirteenth-century Castile represents one of the trends against which I will argue.

The *Siete Partidas*' reliance on earlier legal traditions contrasts sharply with the opposite historiographical extreme. This alternative, to which more modern historians tend in their discussions of Alfonso X, sees Alfonso as primarily a forward-thinking ruler. In their

¹¹ Keller, John Esten, *Alfonso X, el Sabio*, (New York: Twayne Publishers, 1967).

¹² *Ibid.*, 117.

¹³ Graves, Coburn V., Review of Keller, John Esten, *Alfonso X, el Sabio* (*The Hispanic American Historical Review*, v. 48, n. 4, Nov. 1968), 685.

¹⁴ Fraker, Charles, *The Scope of History: Studies in the Historiography of Alfonso el Sabio* (Ann Arbor: The University of Michigan Press, 1996), 2.

analysis of Alfonso X, many historians portray him as both a visionary and a leader of a thirteenth-century European Renaissance. While this description of Alfonso is not in itself inaccurate, in their ebullient praise of Alfonso's farsighted, enlightened thought, historians run the risk of ascribing an excessive modernity to Alfonso. This visionary perspective on Alfonso's life has deep roots in the historiography of Alfonso's reign. Keller, for example, writes that Alfonso not only was far ahead of his time, but also certainly knew it:

The truth [about Alfonso X] lies in the fact that he was far in advance of the people of his times, and this he must have known quite well. A person oriented as Alfonso was—possibly the only individual in all Europe so oriented ... must have felt extreme frustration in a world which apparently could not or would not accept what he proposed for its improvement. Misunderstood, imposed upon by members of his family who took advantage of his benevolence at every turn, driven into exile by his own son, and constantly hindered by a powerful and resentful nobility, might he not have lashed out with some angrily boastful remark? Indeed, might he not have actually come to believe that his vast knowledge placed him high above other men? Possibly so.¹⁵

Here, Keller presents the argument from common sense: Alfonso must even have believed himself to be ahead of his time because he understood his superiority to his contemporaries. Other scholars besides Keller subscribe to a similar understanding of Alfonso X. Robert Anderson, for instance, describes Alfonso as a ruler more enlightened than his contemporaries, and adopts an even more admiring tone than Keller. Describing Alfonso, Anderson writes:

The fact is that Alfonso bears a dual relationship to a specific period in Spanish history, the Renaissance: 1) throughout his life he embodied traits

¹⁵ Keller, 7-8.

that today we associate primarily with the “Renaissance scholar;” he represented a prelude of things to come; he was indeed a man “ahead of his times;” 2) perhaps more significantly, his persistent work ... initiated an unbroken chain that continued throughout the gigantic rebirth.¹⁶

Besides this analysis, Anderson adds that Alfonso was “a man of vision whose thought and achievements in many respects actually foreshadowed the dawn of modern civilization.”¹⁷

To be fair, Anderson does partly modify these claims in his conclusions, refusing to actually *call* Alfonso a “Renaissance man.”¹⁸ However, as shown below, these descriptions of Alfonso X reappear in modern historiography in a manner generally more nuanced and slightly modified, but very real.

Current historians of Alfonso X have largely accepted this perspective of Alfonso as visionary. Indeed, in his scholarship on Alfonso, Joseph O’Callaghan makes a plausible defense for it. O’Callaghan notes that Alfonso carefully and deliberately shaped the institutional development of Castile, consistently seeking to strengthen the monarchy at the expense of the nobility.¹⁹ Though strongly resisted during his reign, Alfonso’s legislative

¹⁶ Anderson, Robert R., “Alfonso X el Sabio and the Renaissance in Spain” (*Hispania*, v. 44, n. 3, Sep., 1961), 448.

¹⁷ *Ibid.* Interestingly, Anderson argues against what he describes as a common characterization of Alfonso X: that Alfonso was an idealist whose scholarly accomplishments exist in a “medieval void” without reference to their later influence on a variety of intellectual traditions. In my description of Alfonsine historiography, I have generally chosen not to analyze historiography prior to 1960, since my goal is to describe most recent trends in scholarly presentations of Alfonso X.

¹⁸ *Ibid.*, 452.

¹⁹ O’Callaghan, Joseph F., “Image and Reality: The King Creates His Kingdom,” in Burns, Robert I., ed. *Alfonso the Learned of Castile and His Thirteenth-Century Renaissance* (Philadelphia: University of Pennsylvania Press, 1990), 29.

reforms eventually did become the basis for modern Spanish (and even parts of American²⁰) law. In this consolidation of royal power, Alfonso's policies were of primary importance in the development of a unified Spain. O'Callaghan argues for an even greater significance of Alfonsine law, writing that "if [Alfonso] had ordered the *Partidas* written in Latin, it would probably have been accepted as the basic code of law for all of western Europe."²¹ Thus, from O'Callaghan's perspective, one can legitimately argue for Alfonso's visionary, "ahead of his time" mentality because of his persistence about reform in the face of opposition and the importance of his law codes for later history.

Though perhaps more true for Castilian history than for Iberian history as a whole, O'Callaghan's perspective on Alfonso's historical importance seems relatively convincing. However, other historians carry this line of reasoning to admiration bordering on hagiography. Some of Robert Burns's treatment of Alfonso falls into this category. Burns uses the term *stupor mundi* as a framework for his descriptions of Alfonso, with interesting results. For example, Alfonso was closely involved in the production of the scholarly and artistic works produced by his court, leading Burns to note that "this farsighted, indefatigable king was a one-man renaissance."²² In his description of the *Siete Partidas*, Burns compares its treatises favorably with Frederick II's law codes. Unlike Frederick's "terse" codes, the *Partidas* "are instead reflective historico-moral disquisitions such as one might expect from

²⁰ Burns, *Siete Partidas*, xix-xxi.

²¹ O'Callaghan, "Image and Reality," 30.

²² Burns, Robert I., "*Stupor Mundi*: Alfonso X of Castile, the Learned," in *Emperor of Culture*, 10.

Plato's philosopher-king."²³ And in defending Alfonso's fusion of Islamic cultural influences and his importance for Castilian law, Burns argues that far more than Frederick II, Alfonso X is the monarch who truly deserves the title "*stupor mundi*."²⁴ Burns's admiration of his subject leads him to focus on the importance of Alfonso's reign for the future, to the exclusion of Alfonso's concern with his own contemporaries and his own territory.

One should also note that though my thesis focuses primarily on the American historiography of medieval Spain, there are similar examples available in Spanish scholarship as well. One example of such a treatment of Alfonso X is Luis Suarez-Fernandez's history of medieval Spain. In his primarily political history, Suarez-Fernandez accepts many of the same arguments about Alfonso X's reputation as an ineffective visionary, noting his inability to maintain a united kingdom in the face of rebellions from both conquered enemies and his own son.²⁵ Suarez-Fernandez also notes that Alfonso suffered a massive rebellion among his Muslim subjects "at the precise moment" that he was vigorously prosecuting his claims for the throne of the Holy Roman Empire with the papacy. In his history, Suarez-Fernandez therefore implies a certain ineptitude on Alfonso's part for the mundane aspects of ruling a kingdom.²⁶ While less explicit in his praise of Alfonso X than Burns, in Suarez-Fernandez one finds the similar conclusion that Alfonso was

²³ *Ibid.*, 7.

²⁴ *Ibid.*, 13.

²⁵ Suarez-Fernandez, Luis, *Historia de Espana: Edad Media* (Madrid: Editorial Gredos, 1978), 325-326.

²⁶ *Ibid.*, 311-312.

incompetent when it came to ruling his own kingdom.²⁷

The prevalence of these teleological assumptions about Alfonso's motivations appears clearest in the most general medieval history available: the textbook. From the view of the textbook author, because the *Siete Partidas* represent a consolidation and standardization of diverse legal traditions, Alfonso X may be grouped with Frederick II and Louis IX as rulers who sought to consolidate and strengthen royal power at the expense of the nobility. This desire for increased royal prestige automatically seems to make Alfonso one of those visionaries, since those rulers who consolidated royal power were implicitly interested in creating something very like modern nation-states.²⁸ One finds that later medieval rulers, building on the foundations of these monarchs' efforts, continued to move Europe "toward the sovereign state."²⁹ Other authors adopt similar treatments of Alfonso, with one historian describing Alfonso's promulgation of uniform law codes as part of "the search for order."³⁰ This perspective on Alfonso gains particular importance when one considers that Alfonso is one of the few Iberian kings that historians usually see fit to mention in general histories of Europe;³¹ like the Holy Roman Empire, historians tend to

²⁷ See Burns, "Stupor Mundi," 4-5, where Burns describes the most common historiography of Alfonso X. From the traditional perspective, Alfonso "pondered the heavens but lost the earth." Apart from a single sentence acknowledging that some of Alfonso's failures might have been the "product of circumstance," Burns takes no position on this issue.

²⁸ Bennett, Judith M., and C. Warren Hollister, eds., *Medieval Europe: A Short History* (10th edition, New York: McGraw-Hill, 2006), 266-287.

²⁹ *Ibid.*, 346-358.

³⁰ Cantor, Norman F., *The Civilization of the Middle Ages* (New York: HarperCollins, 1993), 510.

³¹ For one of many examples, see Le Goff, Jacques, *Medieval Civilization, 400-1500*, trans. Julia Barrow (Oxford: Blackwell, 1988).

view the Iberian peninsula as only a peripheral participant in the trend toward unified nation-states.³² Thus, this pedagogical structure of teleology and progress fits well with historiographical descriptions of Alfonso's reign, legitimizing the idea that Alfonso X, as a ruler ahead of his time, instigated reform leading to the future that eventually developed. (The relative unpopularity of textbooks that do not relate history as a narrative of progress likely further reinforces this notion.)³³ At all levels of scholarship, treatment of Alfonso X's reign follows the argument that Alfonso was a ruler truly "ahead of his time."

This, then, is the historiographical climate in which Alfonso's reputation exists at the beginning of the 21st century. Before analyzing the text itself, I should add a note on my sources. There remains no critical edition of the *Siete Partidas*, and there are indeed three distinct manuscript traditions for the different editions of the *Partidas*. The two most common versions of the *Partidas*, and the ones I have used for this study, both were published in the nineteenth century. The edition of the *Partidas* that I have used the most, and from which all quotations will appear, is that of Spain's Royal Academy of History, compiled by an anonymous team in 1807.³⁴ This edition of the *Partidas* comes from a significantly different textual tradition than the other most common traditions of the *Partidas*, and in fact it was not until 1986 that scholars were able to find all the manuscripts

³² My thanks to Dr. Bast for this observation.

³³ Loewen, James W., *Lies my Teacher Told Me: Everything Your American History Textbook Got Wrong*, (New York: Touchstone, 1995), 279-283.

³⁴ *Las Siete Partidas del Rey Don Alfonso el Sabio*. Madrid: La Real Academia de la Historia, 1807 (reprinted 1972).

on which this version depended.³⁵ I also have referred to the recent edition of the *Partidas* edited by Robert Burns, which reprints the English of the 1931 translation by Samuel Parsons Scott. Scott's translation was of the 1843-44 edition by Ignacio Sanpontos y Barba, Ramon Marti de Eixala, and Jose Ferrer y Subirana.³⁶ These editions are the most commonly accepted versions of the *Partidas*, but since no complete version of the *Partidas* exists earlier than the late fourteenth century, and there is no critical edition, there is at present no definitive reason to prefer one textual tradition over the other.³⁷ In my analysis, I have selected passages that have basically the same content and wording. The most significant differences are that the manuscript traditions sometimes number the "laws" (section headings) differently, so that cited passages may not appear in the same place in another edition, and that the Scott translation does not include any version of the prologues to the *Siete Partidas* found in the Royal Academy's edition.³⁸ The Royal Academy's edition also includes variant manuscript transcriptions in its edition, which I have also considered where appropriate.

Finally, one should note the problem of the *Siete Partidas*' authorship. While there is no doubt that Alfonso X commissioned the *Siete Partidas*, sections of the code seem to contradict one another or adopt an unclear stance toward a specific subject. (The role of religious minorities within Castile is one example, discussed below.) These problems have

³⁵ Craddock, xli.

³⁶ *Ibid.*, xliii.

³⁷ O'Callaghan, "Alfonso X and the *Partidas*," xxxiv.

³⁸ *Las Siete Partidas del Rey Don Alfonso el Sabio*. Madrid: La Real Academia de la Historia, 1807 (1972), 1-9.

led some scholars to assert that Alfonso is not the true “author” of some areas of the *Partidas*. The most obvious example of this attitude is Norman Roth, who describes the *Siete Partidas* as “largely” written by Ramon de Penafort.³⁹ In this thesis, I adopt the more common view that Alfonso involved himself deeply in the *Siete Partidas*, taking the role of an “active general editor” who personally oversaw the most extensive legal codification to occur during his reign.⁴⁰ While clearly the product of collaboration between Alfonso and the anonymous scholars who compiled the work, the most commonly accepted view is that Alfonso had a substantial degree of input into the details of the *Siete Partidas*.⁴¹

³⁹ Roth, Norman, *Conversos, Inquisition, and the Expulsion of the Jews from Spain* (Madison: University of Wisconsin Press, 2002), 48.

⁴⁰ Procter, Evelyn S., *Alfonso X of Castile: Patron of Literature and Learning* (Westport, CT: Greenwood Press, 1961), 3.

⁴¹ O’Callaghan, “Alfonso X and the *Partidas*,” xxxv-xxxvii.

Chapter 2: The Legal Terminology

Having introduced the *Partidas* in some detail, I will (finally) turn to the text itself. In some ways, it makes sense to argue that the importance historians attach to the *Siete Partidas* has little to do with their Castilian context. After all, the *Partidas* themselves were not promulgated as law until after Alfonso X's death, and the *Especulo* represented the actual law of Castile during Alfonso's reign.⁴² However, I will argue that in several areas the *Siete Partidas* suggest that they (and consequently, Alfonso) are indeed a product of their time and place. One finds evidence for this claim at almost the very beginning of the *Partidas*, when Alfonso defines some of the sources of the laws that he will describe in the code. Here, three important terms appear for Alfonso's legal principles: usage, custom, and *fuero*. Each of these terms has particular importance for thirteenth-century Castile. In each case, Alfonso first defines the term, next describes the way or ways that the principle might properly develop in a community, and finally describes the manner in which that principle can acquire the force of law in the kingdom. Following Alfonso's order of examination,⁴³ I will first discuss "usage."

In describing "usage," the *Partidas* in effect affirm that unopposed and long-term Castilian practices in and of themselves acquire the force of law. Alfonso defines the term as "a thing born from those things that man says or does continually for a great time and

⁴² O'Callaghan, "Alfonso X and the *Partidas*," xxxviii-xxxix.

⁴³ This section of the *Partidas* is one example of the manifest need for a critical edition of the *Siete Partidas*, since the Royal Academy's alternate manuscript tradition contains this legal terminology in a different order and with some substantial differences in content in the text itself. Here, I have chosen to employ the Royal Academy's preferred version.

without any impediment,”⁴⁴ though an additional qualifier that the action must occur publicly and without deception immediately follows.⁴⁵ Alfonso continues with an extensive discussion of the reasons that long use can imply legality and the duration of that effect. For Alfonso, usage gains force for several reasons:

The reasons that usage gains [force of law over] time are these: the first is if it is made about things that are able to lead to good and not evil ... the second is if it is made publicly and with great deliberation ... the fourth is if it does not contradict the rights we have [previously] established⁴⁶

The second factor determining the legality of a particular practice is the length of the practice; over time, practices become more binding on the populace than they were previously:

And this time [toward a practice acquiring force of law] that gains is in two manners: first, for a short while if the use in question cannot be avoided; and second, for a long time according to the good that comes from its use. And for all these reasons use gains the force of law over time according to the manner of its use, and if it is not done according to this way, then it can lose

⁴⁴ *Las Siete Partidas*, 1, 2, 1: “Uso es cosa que nace de aquellas cosas que home dice o face, et que siguen continuadamente por grant tiempo et sin embargo ninguno.” In my English translations of the *Partidas* I will generally maintain the original punctuation; while slightly different from modern usage, it does not hinder comprehension of the translated text.

⁴⁵ *Ibid.*, 1, 2, 2. The *Siete Partidas* are divided into seven *partidas* (hence the name), with each *partida* further subdivided into *titulos* (“titles,” analogous to chapters) and *leyes* (“laws,” smaller subdivisions generally between half a page and a full page long).

⁴⁶ *Ibid.*, 1, 2, 3: “Las razones por que el uso gana tiempo son estas: la primera si se face sobre cosas de que puede venir bien et non mal, asi como ya dexiemos; la segunda que sea fecho paladinamente et con gran consejo la quarta si non va contra los derechos que nos establecemos” Alfonso’s other reasons for usage gaining legal force are in situations where the people agree to a practice among themselves (with the lord’s consent), or with lordly approval.

its legality.⁴⁷

Though I will analyze the terminology in more detail below, one should note here that Alfonso accepts in theory the idea that law might exist and have validity independent from Alfonso's own proclamation (or that of any governmental authority). Obviously, such a doctrine would allow for assimilation of conquered territory more easily than an attempt to abolish local practices. More importantly, assurances of local autonomy would be more likely to assuage the fears of the two most common opponents of the monarchy: the nobility and the urban populations. Since these groups often rebelled against the Castilian monarchy's rule,⁴⁸ and since Alfonso himself faced rebellion during his reign,⁴⁹ these assurances seem even more important for Alfonso's *Partidas*.

The second principal aspect of law that Alfonso considers is "custom." According to the *Partidas*, "custom is the right or fuero that is not written, that has been used by men for a long time, helping them in the things and reasons for which they used it."⁵⁰ Unlike usage, however, custom has a far more specific methodology through which it acquires the force of law. In describing the way that customs develop the force of law, Alfonso again

⁴⁷ *Ibid.*: "Et este tiempo que gana es en dos maneras: la primera en tiempo pequeno non pudiendo el uso escusar; la segunda en tiempo grande segunt la bondat del uso. Et por todas estas razones puede ganar tiempo segun la manera del uso, et si asi non fuese fecho, poderlo hian perder." The Royal Academy's alternate manuscripts number these passages differently, treating custom first rather than usage.

⁴⁸ See for example, Hillgarth, J. N., *The Spanish Kingdoms, 1250-1516*, v. 2 (Oxford: Clarendon Press, 1976), 303: "For the ordinary inhabitant of Castile-Leon all [royal] officials were enemies."

⁴⁹ *Ibid.*, 310-312.

⁵⁰ *Las Siete Partidas.*, 1, 2, 4: "Costumbre es derecho o fuero que non es escripto, el qual han usado los homes luengo tiempo ayudadose del en las cosas et en las razones sobre que usaron."

emphasizes the importance of public knowledge of the communal practice in question:

We wish to say that the “people” [*pueblo*] are the union of ethnicities [*gentes*] of many types from the land ... and from this do we leave out neither man, nor woman, nor cleric nor layman. And such a people as this or the greater part of it, if they use [the custom] for ten or twenty years in the manner of custom, with the lord of the land knowing, and not contradicting it and holding it to be good, they are able to do it and it ought to be held and guarded as custom.⁵¹

Unlike usage, however, custom must also be subject to some sort of legal review before it acquires true force of law. After this definition, Alfonso includes additional requirements for a practice to be properly considered a custom:

And in this same time [the ten or twenty years that the *pueblo* practice this custom] there must be made up to thirty judgments [using it] by wise men and those understood to judge, and without anyone opposing it Also, we say that the custom that the people want to be able to use should be with right reason and not against the law of God, nor that of the lord, nor be against natural law, nor against the communal will or the place where it is made.⁵²

From this description, it seems more difficult to gain royal acceptance of a custom than of usage. However, once a custom gains acceptance, it has a much greater impact on the law than usage does. In its relationship with and application to formally established law, custom

⁵¹ *Ibid.*, 1, 2. 5: “Pueblo quiere decir ayuntamiento de gentes de muchas maneras de aquella tierra do se allegan: et desto non sale home, nin muger, nin clérigo nin lego. Et tal pueblo como este o la mayor parte del, si usaren diez o veinte años a facer alguna cosa como en manera de costumbre, sabiendolo el señor de la tierra, et non lo contradiciendo et teniendolo por bien, puedenlo facer et debe ser tenido et guardado por costumbre.”

⁵² *Ibid.*: “... si en este tiempo mesmo fueren dados concejaramente de treinta iuicios arriba por ella de homes sabidores et entendudos de judgar, et non habiendo quien gelos contralle Otrósi decimos que la costumbre que quiere el pueblo poner et usar della, debe ser con derecha razon et non contra la ley de Dios, nin contra señorío, nin contra derecho natural, nin contra pro comunal de toda la tierra o del lugar do se face.”

exerts great influence on the law, even suggesting a law's correct interpretation when its meaning appears in doubt.⁵³ Also, unlike the section on usage, Alfonso closes his treatment of custom with the proviso that he as king might abrogate a custom through his own authority or by instituting an alternative custom for the similar ten or twenty-year period.⁵⁴

Having defined and described both usage and custom, Alfonso considers the last legal term in this section of the *Partidas*: the *fuero*. Neither Scott nor Burns chose to translate the term “*fuero*,” but the term has a particular importance specific to northern Spain and southern France. The most relevant definition of the term considers the *fuero* as a specialized, local law intimately connected with privileges and exemptions from broader legal mandates.⁵⁵ Alfonso links the term etymologically to the Latin *forum*, and so explicitly states that the *fuero*'s importance lays in its prominent and publicly proclaimed character.⁵⁶ Besides this link to the ancient, Roman past, Alfonso defines the *fuero*⁵⁷ in terms of the other legal principles previously described:

A *fuero* is a thing in which are included those two things that we have spoken of, usage and custom, that each of them must enter into a *fuero* to make it firm: usage because men that create it love it; and custom that is like a thing

⁵³ Burns, ed., *Las Siete Partidas*, 1, 2, 6. This passage does not appear in the Royal Academy's versions.

⁵⁴ *Ibid.*

⁵⁵ Strong, William T., “The Fueros of Northern Spain,” *Political Science Quarterly*, v. 8, n. 2 (Jun., 1893), 318.

⁵⁶ *Las Siete Partidas* (Royal Academy), 1, 2, 8. In the *Siete Partidas*, definitions often begin with a term's etymological significance.

⁵⁷ While Alfonso may be speaking of his own earlier legal code, the *Fuero Real*, the general nature of this entire section of the *Partidas*, coupled with Alfonso's own attempt here to define the term, leads me to conclude that the *fuero* described here is a general, rather than specific, one.

for their inheritance to consider and guard it but there is a distinction between these things, that usage and custom are made about particular things ... but the fuero has to be [made] over all and over all things that pertain to rightness and justice. And therefore it is more general than custom or usage.⁵⁸

The fuero also differs from usage and custom in the method of its creation. Unlike the previous principles, created from long use and popular tradition (though ostensibly with the oversight of authority), the initiative for the fuero comes from the intellectual elite. Alfonso writes:

The fuero should be made well and completely, guarding in all things reason and rightness, and equality and justice; and it should be made with the counsel of good and wise men, and with the consent of the lord, and with the acceptance of those to whom it applies And when this is done, it may be promulgated, and ordered to all the other places ... and in this way it will become like law.⁵⁹

Here, the general, sweeping scope of the fuero, combined with its emphasis on noble or royal consent provides it with more authority than either usage or custom.

In describing the ways that the fuero might be abolished, Alfonso implies a centralized approach to the fuero. After an interesting digression into the nature of good and evil, Alfonso recognizes that reevaluation of the fueros must occur regularly to ensure that

⁵⁸ *Ibid.*: “Fuero es cosa en que se encierran estas dos maneras que habemos dicho, uso et costumbre, que cada una dellas ha de entrar en el fuero para ser firme: el uso porque los homes se fagan a el et lo amen; et la costumbre que les sea asi como en manera de heredamiento para razonarlo et guardarlo pero ha entre el et estos otro departimiento; ca el uso et la costumbre facense sobre cosas senaladas ... mas el fuero ha de ser en todo et sobre toda cosa que pertenesca senaladamente a derecho et a justicia. Et por esto es mas paladino que la costumbre ni el uso.”

⁵⁹ *Ibid.*, 1, 2, 9: “Fecho debe ser el fuero bien et complidamente, guardando en todas cosas razon et derecho, et egualdat et justicia; et debese facer con consejo de homes buenos et sesudos, et con voluntad del senor, et con placenteria de aquellos sobre que lo ponen Et quando asi fuere fecho puedenlo otorgar, et mandar por todos los otros lugares ... et desta guisa sera asi como ley.”

they still comply with the ideals described above. When a *fuero* no longer should exist, whether through a failure to phrase the language of the *fuero* properly, an incompatibility with the law of God, or the *fuero*'s failure to ensure the public good, it may be abolished. Interestingly, Alfonso closes his description of the *fuero* by mentioning that this rationale should apply to usage and custom as well.⁶⁰ In the *fuero* more than any other legal principle, then, Alfonso has attempted to ascribe legal power to centralized authority over and against the localized, common law.

At first, one might claim that this part of the *Siete Partidas* contains little that did not already exist in past legal traditions. To some extent, this argument is correct; this section contains elements of all the most prominent legal traditions used in the *Siete Partidas*. However, there are several reasons that this section of the *Siete Partidas* reflects the particularity of the Castilian situation in the thirteenth century. To begin, consider the task of the *Siete Partidas* themselves as a compilation of earlier legal traditions. Certainly there is an undeniable Roman element, even explicitly referred to by Alfonso in his treatment of the *fuero*. Canon law also has an important role in this section of the *Partidas*, since the definitions of “usage” and “custom” actually derive from the *Corpus iuris canonici*.⁶¹ Finally, in the inclusion of the term *fuero*, the Iberian, local legal traditions also appear. As the foundation of the Iberian legal system, the *fueros* had special importance for the inhabitants of the peninsula, and varied greatly from area to area within Castile.⁶² Thus, the

⁶⁰ *Ibid.*, 1, 2, 10.

⁶¹ *Las Siete Partidas*, Scott, 10.

⁶² Scott, 12-13. Each region, province, or city had its own charter with specific rights that the population fiercely defended against perceived royal encroachment.

most important legal traditions of medieval Castile appear in this section of the *Partidas*.

It is this compilation and fusion of disparate legal terminology that provides striking evidence that Alfonso does concern himself with thirteenth-century Castile in the *Partidas*. Clearly, the incorporation of these terms does not come easily to Alfonso, as evidenced by the difficulty that Alfonso faces when attempting to create a clear definition for these terms. Note, for example, that Alfonso defines the custom as an unwritten *fuego*, a *fuego* as a union of usage and custom, and usage as those things done customarily over a long time. These semi-circular definitions make sense if one considers that Alfonso wanted to import Roman and canon law into Castile in a way that local, Iberian people would find acceptable. By describing the legal principles of usage and custom as components of the *fuego*, Alfonso implicitly subordinates these principles to the *fuegos* that Castilian aristocrats and peasants held so dear.⁶³ The importance Alfonso places on the *fuego* makes sense in the context of Castile's unique situation. Far more than most European monarchies—indeed, far more even than the crown of Aragon—Castile experienced significant, prolonged conflict between the monarchy's desire for control and the nobility and townspeople's adamant defense of their local autonomy.⁶⁴ Therefore, Alfonso must appear respectful of the *fuego* and give it great prominence, while using it to provide a rationale for his own legal authority. As such, Alfonso has tailored his compilation of Roman, canon, and local law to seem particularly acceptable to the local inhabitants of Castile. This sort of nuanced legislation suggests that

⁶³ *Ibid.*, 13.

⁶⁴ Strong, 322. For the most relevant example, see Hillgarth, 306-308, where Hillgarth ascribes the nobility's opposition to Alfonso's program of centralization under the monarchy as one of the central unifying goals of the Castilian aristocracy.

here, Alfonso truly has concerned himself with thirteenth-century politics.

In addition to the definitions themselves, the sources of authority further support the claim that Alfonso did concern himself with the particulars of thirteenth-century Castile. As one might expect, the legal principles described in the *Partidas* privilege authority – particularly royal authority – in the interpretation of the law. Thus, the fuero comes from the lord and represents a sweeping mandate to be applied quite generally, and custom depends on formal approval from the lord before it gains the force of law. However, while Alfonso does assert his authority, he also concedes substantial legal autonomy to the localities whose traditions have acquired the force of custom or, especially, usage. To leave substantial latitude for local autonomy again represents Alfonso's recognition that his situation in Castile required substantial support from his nominal subjects, and that the inhabitants of the peninsula guarded their autonomy closely;⁶⁵ the fact that Alfonso's attempts to unify his territory met such fierce opposition should not obscure the comparatively realistic perspective that this legal fusion demonstrates. In this synthesis of Roman, canon, and local law, Alfonso shows his concern with Castile's situation by giving preference to the local fuero over the other legal elements incorporated into the *Siete Partidas*.

⁶⁵ Bartlett, Robert, *The Making of Europe: Conquest, Colonization, and Cultural Change, 950-1350* (Princeton: Princeton University Press, 1993), 148-49.

Chapter 3: The Relationship with the Church

The king's relationship with the church is another area in which a reconsideration of Alfonso X seems appropriate. Besides the obvious importance of the king's law code beginning with a series of theological claims reinforcing Alfonso's doctrinal orthodoxy,⁶⁶ numerous passages imply a serious concern on Alfonso's part in the sections of the *Partidas* dealing with the Catholic church. After the fourth *titulo*, nearly the entire remainder of the first *partida* concerns itself with the practicalities of church administration in Castile. It is this section that I will examine now.

Much of Alfonso X's discussion of the church in the first *partida* represents a confirmation of canon law. In his treatment of the pope, Alfonso clearly confirms papal primacy over all other bishops of the church:

The pope of Rome is also a bishop like one of the others, as it is stated in the third law before this: but we want to show here why he is called it [pope], and what honor and what power he has more than the others and likewise the other bishops take the place of the apostles as we have said, because this bishop has the place of Saint Peter whom God anointed above all the other apostles, for this reason they called him "Apostolic"⁶⁷ and not the others And as in each place, the bishop has the place of our lord Jesus Christ, and is his vicar over everything that is given to him in his bishopric ... the pope is clearly the vicar of Jesus Christ in all the world.⁶⁸

⁶⁶ *Las Siete Partidas*, 1, 4.

⁶⁷ Here again, Alfonso defines the term through its etymological significance; the word used to denote the pope in the *Siete Partidas* is "apostoligo."

⁶⁸ *Las Siete Partidas*, 1, 5, 3: "Apostoligo de Roma obispo es tambien como uno de los otros, asi como dicho es en la tercera ley ante desta: pero nos queremos aqui mostrar porque es asi llamado, et que honra et que poder ha mas que los otros et como quier los otros obispos sean en lugar de los apostoles asi como habemos dicho, porque este tiene senaladamiente lugar de sant Pedro a

Most of this section follows a similar tone, with the exception of a provision that the pope may redraw the diocesan divisions or create new dioceses at the request of the king.⁶⁹ However, Alfonso carefully includes provisions in this discussion of the church that again directly relate to medieval Castile, rather than providing a recapitulation of general canon law. Balancing the need for church support in military affairs with the precepts of canon law, Alfonso discusses the military obligations of the clergy under Castilian rule. If warfare is expected to occur between Christians and Muslims, then clerics are bound to guard the walls along with the rest of the people, since “it is right that everyone guard and defend the true faith and help their land and their Christians against enemies.”⁷⁰ However, Alfonso does not consistently seek the same level of support as he would from the lay nobility:

But if the king engages in war with [other] Christians, he ought to excuse the prelates and the other clerics that will not go there in person, except for those things that are governed according to the law of Spain; but the knights [of those lands] are not to be excused, nor the other people that do not comply to the king’s [demand for] service.⁷¹

Besides the obviously unique situation in Castile, where a monarch might war with another

quien Dios adelanto sobre todos los otros apostoles, por eso llaman a este apostoligo et non a los otros Et como quier que cada un obispo tenga lugar de nuestro senor Iesu Cristo, et sea vicario del sobre aquellos quel son dados en su obispado ... el apostoligo es vicario senaladamente de Iesu Cristo en todo el mundo.”

⁶⁹ *Ibid.*, 1, 5, 5.

⁷⁰ *Ibid.*, 1, 6, 53: “ca derecho es que todos guarden et defiendan la verdadera fe, et amparen su tierra et sus cristianos de los enemigos.”

⁷¹ *Ibid.*, 1, 6, 52: “Pero si el rey hobiere guerra con cristianos, debe escusar a los perlados et a los otros clerigos que non vayan alla por sus personas; sinon en aquellas cosas que son usadas segunt fuero de Espana: mas por eso non han de ser escusados los sus caballeros nin las otras gentes que las non haya el rey para su servicio en aquella guisa que mas le compliere.”

Christian king one day and with a Muslim enemy the next, this passage further emphasizes Alfonso's concern with balancing his needs with the objectives and rights of the papacy. Alfonso's alliance with the church clearly remains important here.

Perhaps the most telling passage of this sort in the *Siete Partidas* comes in the discussion of royal influence on the election of bishops. As is appropriate, Alfonso confirms that the election of bishops must follow traditional methods:

The Holy Church commands that the prelates [bishops] are chosen with extreme diligence, since they take the place of the apostles in the land. And the manner of how they should be selected is this: that when some church is vacant ... [and] without a prelate, that the dean and the canons that are in it should meet and send all their messengers that are in the province or realm according to the custom of their church [to] come on the day they have chosen to hold the election [of the new prelate].⁷²

The passage continues, noting that should the canons be unable to select a suitable candidate, the pope would appoint a suitable person to the position.⁷³ This section therefore reflects the ideal manner of diocesan election and would seem to give the church full autonomy in selecting its officials. However, after this passage, Alfonso adds a small law remarkable both in its scope and its clear recognition of the power of Castile's monarchy over the local churches:

⁷² *Ibid.*, 1, 5, 17: "Manda santa egleſia que los perlados sean escogidos con muy grant femencia, como aquellos que han de tener lugar de los apostoles en tierra. Et la manera de como los deben esleer es esta, que quando vagare alguna egleſia ... sin perlado, que el dean et los canonigos que en ella se acertaren debense ayuntar, et llamar a todos los otros sus companeros que fueren en la provincia o en el regno segunt costumbre de su egleſia, que vengan al dia que les senalaren a facer la eleccion."

⁷³ *Ibid.*

In ancient times there was a custom of Spain, that still continues, that when a bishop of some place died, that it was made known to the king by the canons and the messengers of the church in a letter ... and that they be able to conduct their election without opposition, and that they provided [to the king] the wealth of the church And after the election was conducted, they presented the elected one to the king, and he commanded that he give [to the king] that which he received.⁷⁴

In effect, Alfonso reserves the right to confirm all new bishops in Spain in their offices, and to profit from the fees associated with that confirmation.

This discussion of church administration in Castile supports a potential reinterpretation of Alfonso X as both a medieval and Castilian ruler. In itself, this sort of royal involvement in the church's dioceses is not the exclusive behavior of Alfonso X; royal intervention in church affairs has a long history in many areas of Europe. In England, for example, even Innocent III could not take away the king's power to "confirm" high church officials,⁷⁵ and even France's pious Louis IX would not completely submit to papal control over his realm's church.⁷⁶ Alfonso's insistence on authority over his own church thus makes him appear typically medieval, since most medieval kings felt it was their duty to supervise their own churches. However, it is Alfonso's rationale for his involvement in church affairs (rather than the involvement itself) that supports an argument for a keen awareness on the

⁷⁴ *Ibid.*, 1, 5, 18: "Antigua costumbre fue de Espana, et dura todavia, que quando fina el obispo de algunt lugar que lo facen saber los canonigos al rey por sus companeros de la eglesia con carta ... et quel pidien merced quel plega que puedan facer su eleccion desembargadamente, et quel encomiendan los bienes de la eglesia Et despues que la eleccion fuere fecha, presentenle el eleito, et el mandal entregar de aquello que recibio."

⁷⁵ Morris, Colin, *The Papal Monarchy: The Western Church from 1050 to 1250* (Oxford: Clarendon Press, 1989), 428.

⁷⁶ *Ibid.*, 556.

part of Alfonso for Castile's unique situation in medieval Europe. Alfonso's reasons for the king's power over the election of the bishops include traditional justifications for the practice, but also include local, Castilian ones:

And the kings of Spain had this privilege and honor for three reasons: the first is because they conquered the land of the Moors, and made their mosques into churches, and threw out the name of Mohammed and put forth that of our lord Jesus Christ. The second is because they founded new ones [churches] in places that had never had them [before]. The third is because they funded them, and did and made much good [for them].⁷⁷

Thus, the justification for royal authority over the Castilian church stems from the particulars of Alfonso's situation, and not from any dogmatic or theoretical conflict with the emerging papacy. The numerous examples of conflict between monarchs and the papacy show that Alfonso could easily have phrased his assertion of power in other ways.⁷⁸ However, by phrasing his reasons as he does, Alfonso not only maintains substantial control over Castile's church, but also avoids a potential source of trouble with papal assertions of autonomy.⁷⁹ Thus, in this section of the *Partidas*, Alfonso has both affirmed canon law and asserted his own authority within his kingdom. Again because of the particulars of Alfonso's rule,

⁷⁷ *Las Siete Partidas*, 1, 5, 18: "Et esta mayoria et honra han los reyes de Espana por tres razones: la primera porque ganaron la tierra de los moros, et fecieron las mezquitas eglesias, et echaron dende el nombre de Mahomad et metieron hi el de nuestro senor Iesu Cristo: la segunda porque las fundaron de nuevo en lugares do nunca las hobo: la tercera porque las dotaron, et demas les fecieron et facen mucho bien."

⁷⁸ See, for example, the standard treatment by Cantor, 395-415, and Brian Tierney's *Religion, Law, and the Growth of Constitutional Thought* (Cambridge University Press, 1982).

⁷⁹ See also *Las Siete Partidas* 1, 6, 39-42, where Alfonso discusses situations in which the monarchy has authority over clergy but also emphasizes the reverence and respect that are due to the clergy.

conflict with the papacy was anything but prudent.⁸⁰

Alfonso X needed papal support because of the continuing *Reconquista*. The attempt to expel Muslim rule from the Iberian peninsula represented an important part of Alfonso's goals and encompassed the entire length of his reign. One should not underestimate the importance of the Castilian desire for unity. Joseph O'Callaghan writes that "throughout these long centuries [700-1400] the reconquest was the common purpose and the cohesive principle of the Christian states [of the Iberian peninsula]."⁸¹ While numerous counterexamples prove O'Callaghan wrong about the Christian kingdoms of the peninsula in general,⁸² about the Castilian monarchy during the reign of Alfonso X and his father, O'Callaghan's generalization is accurate. The report of the deathbed speech of Alfonso's father, Fernando III, reflects the Castilian concern with reconquering the peninsula:

My lord, I leave you the whole realm from the sea hither that the Moors won from Rodrigo, king of Spain. All of it is in your dominion, part of it conquered, the other part tributary. If you know how to preserve in this state what I leave you, you will be as good a king as I; and if you win more for yourself, you will be better than I; but if you diminish it, you will not be as good as I.⁸³

Clearly, then, territorial advancement represented an important part of the Castilian

⁸⁰ I am not here claiming that Alfonso X's relationship with the papacy was invariably a positive one, but merely that Alfonso recognized the need to keep that opportunity available to the Castilian monarchy.

⁸¹ O'Callaghan, Joseph F., *A History of Medieval Spain* (Ithaca: Cornell University Press, 1975), 22.

⁸² Hillgarth, J. N., *The Spanish Kingdoms*, v.1, 262-286.

⁸³ Pidal, Ramon Menendez, ed., *Primera Cronica General* (Madrid: Gredos, 1955), 772-73, ch.1132, quoted in O'Callaghan, Joseph F., *Reconquest and Crusade in Medieval Spain* (Philadelphia: University of Pennsylvania Press, 2003), 8.

monarchy's ambitions. Alfonso X followed his father's advice, as he continued fighting to expand Castile's control over formerly Muslim lands once he succeeded his father⁸⁴ and quelled an extensive rebellion by Muslim communities under Castilian control during his reign.⁸⁵ The reconquest therefore represents a significant local aspect with which Alfonso's *Siete Partidas* demonstrate an important preoccupation.

As mentioned above, papal support was a significant advantage for Castile during the reconquest because it provided moral, financial, and military support for the conflict occurring on the frontier. Gregory XI's actions toward Fernando III in 1236 provide one example of the influence that the pope could have on the military situation in Iberia; when Fernando suffered financial hardship because of the attempt to retake Cordoba, Gregory characterized the Castilian monarch as an "athlete of Christ." He then ordered the Castilian and Leonese churches to provide substantial financial support for Fernando's military campaigns for the next three years, prevented anyone but himself from excommunicating Fernando, and, most importantly, ordered the local bishops to exhort enlistment in the royal army (or to finance another's enlistment) and grant the crusading indulgence for those who did so.⁸⁶ As one might expect from the discussion of the *Siete Partidas* thus far, Alfonso continued to take church revenues for the war effort after he succeeded Fernando.⁸⁷

Thus, these actions show the papacy's ability to intervene on the secular level through

⁸⁴ O'Callaghan, *Reconquest and Crusade*, 150.

⁸⁵ O'Callaghan, Joseph F., *The Learned King: The Reign of Alfonso X of Castile* (Philadelphia: University of Pennsylvania Press, 1993), 183-189.

⁸⁶ O'Callaghan, *Reconquest and Crusade*, 96.

⁸⁷ *Ibid.*, 161.

financial assistance and on the religious level through the spiritual incentives it provided for those who supported the conflicts that the papacy itself endorsed. Though the financial support of the church remains important, one should not discount the spiritual importance attached to the crusading indulgence either. The pilgrimages to the shrine of Saint James of Compostela already had been one of the most important spiritual exercises of the Middle Ages, so much so that in the *Siete Partidas*, the three specific locations to which a pilgrim might travel to obtain the benefits of an indulgence are Rome, Jerusalem, and Santiago de Compostela.⁸⁸ The long tradition of pilgrimage within the Iberian peninsula therefore made the concept of crusade within Iberia more appealing, and would at least theoretically help Alfonso to maintain popular support (and military recruits) for the war effort.⁸⁹ The papacy thus extensively used its authority to assist the Castilian monarchy financially and spiritually. Without the consistent support of the papacy, one might legitimately question whether the reconquest would have succeeded at all.⁹⁰

Finally, one should note that Alfonso X's alliance with the papacy was fundamentally a personal, dynastic one. The pope's indulgences and benefits were specific to Castile, not to the Iberian peninsula as a whole. Indeed, a 1237 crusading indulgence for the archdiocese of Tarragona against Valencia specifically omitted those dioceses that were not under the

⁸⁸ *Las Siete Partidas*, 1, 24, 1.

⁸⁹ For a brief description of the link between pilgrimage and crusade, see Jonathan Riley-Smith's *The Crusades: A History* (New Haven: Yale University Press, 2005). For a longer, more detailed treatment, see Riley-Smith's *The Crusades: A Short History* (London: Athlone, 1987).

⁹⁰ The remainder of O'Callaghan's *Reconquest and Crusade* emphasizes the papacy's role in the Reconquest in far more detail than I have been able to employ here.

secular control of the Catalanian monarchy.⁹¹ Thus, Alfonso had an additional incentive to maintain good relations with the papacy, since he could not count on support from any sort of general proclamation of indulgence against the Muslims of the Iberian peninsula.

Just as Alfonso X's treatment of the *fuero* confirmed local legal traditions but provided for substantial royal authority in Castilian law, so too Alfonso's confirmation of doctrine and canon law still provides the monarchy with significant authority over the administration of the Castilian church. From a commonsense perspective, the mere fact that the *Siete Partidas* repeat and reconfirm canon law implies that the monarchy has the right to review the precepts of that law. Alfonso also reserves for himself the confirmation of bishops in Castile, and justifies that power by referring to the Castilian monarchy's role in reconquering formerly Christian lands and creating new areas for the expansion of Christendom. Thus, Alfonso adopts a somewhat ambivalent attitude toward the papacy. He clearly requires papal support to fund his armies and continue expansion against the other Iberian powers, but he also seeks to create the unified Castilian Spain discussed above. The *Siete Partidas* show this concern of Alfonso's through the careful treatment of the church and the papacy that Alfonso employs in the text. While he affirms in principle the rights and prerogatives of the church, he also reserves as much power as possible regarding church administration for himself. This section of the *Siete Partidas*, then, suggests a description of Alfonso as both medieval and Castilian, rather than exceptionally visionary.

One should also note that these sections of the *Partidas* show Alfonso X's Iberian context from a wider perspective, since one of the most important reasons that Alfonso

⁹¹ Hillgarth, 13.

required papal support was the financial support that the papacy could provide. Financial support was particularly important because of the war expenses of the reconquest, making the Castilian monarchy in some ways even more dependent on the influence of the papacy than other European kings.⁹² Thus, it was Castile's unique situation as a peninsula of diverse polities and religious dominance, and the consequent conflict, that increased military expenses and made the papal alliance so important. For all these reasons, the specific attitude toward the church and the papacy that Alfonso X expresses in the *Siete Partidas* reveals itself to be fundamentally a product of its historical context.

⁹² O'Callaghan, *Reconquest and Crusade*, 152-176.

Chapter 4: Religious Minorities in Castile

The religious difference that sparked the reconquest and so much of Iberian history is the final theme I will discuss in this thesis, and in many ways it is the most important one. The defining characteristic of the medieval Iberian peninsula is its religious diversity, found to a greater extent there than anywhere else in Europe. If nothing else, the peninsula is unique in that more Muslims, Jews, and Christians lived closer together there than they did anywhere else in Europe.⁹³ Unlike areas of Sicily, where populations of religious minorities were small,⁹⁴ or in the Levant, where massacres and expulsions were fiercer and more common than anywhere else,⁹⁵ coexistence was a necessity in a time of political pluralism. In its treatment of the religious minorities that lived under Alfonso's Christian, Castilian rule, the *Siete Partidas* once again initially appear deceptive. The placement of the discussion of the Jews and the Muslims makes these communities appear to be almost an afterthought, toward the end of a *Partida* ostensibly devoted to treating criminal behavior,⁹⁶ and sandwiched between Alfonso's discussion of necromancers⁹⁷ and heretics.⁹⁸ However, the location within the work belies Alfonso's nuanced discussion of subject religious minorities.

⁹³ O'Callaghan, "The Mudejars of Castile and Portugal in the Twelfth and Thirteenth Centuries," in Powell, James M., ed., *Muslims under Latin Rule, 1100-1300* (Princeton University Press, 1990), 20-21.

⁹⁴ Abulafia, David S. H., "The End of Muslim Sicily," in Powell, 118-120.

⁹⁵ Kedar, Benjamin Z., "The Subjugated Muslims of the Frankish Levant," in Powell, 143-145.

⁹⁶ *Las Siete Partidas*, 7, intro.

⁹⁷ *Ibid.*, 7, 23.

⁹⁸ *Ibid.*, 7, 26.

As I will argue in the remainder of this thesis, Alfonso X's discussion of Jews and Muslims actually represents the king as greatly concerned with the specifics of his own situation; rather than legislate from the position of Christian zealot or enlightened political pragmatist, Alfonso balances his Christian faith and the aforementioned need for papal support with his need for both religious communities' financial support and acceptance of his political supremacy.

Alfonso X first discusses the Jews, and almost immediately he displays an ambivalent attitude toward them. Beginning by defining the Jews, Alfonso writes that:

The Jews are likewise a type of men that do not believe [in] the faith of our lord Jesus Christ, but the great lords of the Christians always suffered [the Jews] to live among them we want to speak here of the Jews who contradict and denounce [God's] marvelous and holy deed, that he did when he sent his son our lord Jesus Christ to the world to save the sinners.⁹⁹

Alfonso tolerates the existence of the Jews within his kingdom, even though they deny Christ. This attitude becomes even more apparent in the next *título*:

The Jew is said to be one who believes in and follows the law of Moses according to his letter, and that is circumcised and does the other things that their [Jewish] law commands. And the Jews took this name from the tribe of Judah, that was the most noble and the strongest of all the Jewish tribes And the reason that the [Christian] church, and the emperors, and the kings and the other leaders suffered the Jews to live among the Christians is this: because they always lived in captivity as a source of remembrance that the

⁹⁹ *Ibid.*, 7, 24: "Judios son una manera de homes que como quier que non creen la fe de nuestro senor Jesucristo, pero los grandes senores de los cristianos siempre sufrieron que viviesen entre ellos queremos agora aqui decir de los judios que contradicen et denuestan el su fecho maravilloso et santo, que el fizo quando envio a su fijo nuestro senor Jesucristo en el mundo para salvar los pecadores."

men who come from their lineage crucified our lord Jesus Christ.¹⁰⁰

Here, Alfonso praises the ancestry of the Jews while simultaneously affirming that their presence in Christian lands is an indignity “suffered” by the king. While this passage is particularly remarkable for its change in tone within a single *titulo*, the rest of the *ley* on the Jews maintains the same shifts in tone.

For purposes of my argument, I will here reproduce only the most egregious examples of contradictory language. First, parts of this section adopt a markedly anti-Jewish tone. Repeating the stereotypical accusations against Jews throughout the Middle Ages, Alfonso decries Jewish desecration of Christians and Christianity:

And because we have heard it said that in some places the Jews have made and still make the day of Good Friday, a remembrance of the passion of our lord Jesus Christ, [a day] of contempt, stealing children and putting them on the cross, or making images of wax and crucifying them when they cannot get the children, we command that if [this happens] and after he [the king] discerns the truth, he should order them to be killed in a most horrible manner.¹⁰¹

Though phrasing the accusations in terms of hearsay rather than fact, Alfonso X has here

¹⁰⁰ *Ibid.*, 7, 24, 1: “Judío es dicho aquel que cree et tiene la ley de Moysen segunt que suena la letra della, et que se circuncida et face las otras cosas que manda esa su ley. Et tomo este nombre del tribu de Juda, que fue mas noble et mas esforzado que todos los demas tribus Et la razon por que la eglesia, et los emperadores, et los reyes et los otros principes sufrieron a los judios vivir entre los cristianos es esta: porque ellos viviesen como en cativerio para siempre et fuese remembranza a los homes que ellos vienen del linage de aquellos que crucificaron a nuestro senor Jesucristo.”

¹⁰¹ *Ibid.*, 7, 24, 2: “Et porque oyemos decir que en algunos lugares los judios ficieron et facen el dia del viernes santo remembranza de la pasion de nuestro senor Jesucristo en manera de escarnio, furtando los ninos et poniendolos en la cruz, o haciendo imagines de cera et crucificandolas quando los ninos non pueden haber, mandamos que et despues que el sopiere la verdad, debelos mandar matar muy aviltadamente quantos quier que sean.”

repeated (and thus implicitly given credence to) popular rumors of infanticide and other forms of supposed Jewish anti-Christian rituals. These tales of Jewish perfidy appear throughout medieval European sources, where Jews are depicted as crucifying children, sacrificing humans, willingly spreading plague and desecrating the host.¹⁰² As a result, Alfonso again appears as a medieval ruler with the same popular knowledge as the rest of Castile. Besides the repetition of medieval anti-Jewish calumny, Alfonso refuses justice for Jews who leave their quarter during the Christian Holy Week rituals:

Also, we state that [on] the day of Good Friday no Jew should have the temerity to leave their quarter, moreover that they should remain enclosed [in their quarter] until Saturday morning, and if they do not obey [this stipulation], we say that any pain or dishonor that the Christians inflict on them will not be punished in any way.¹⁰³

Alfonso also states that Jews will wear an identifying mark on their clothing,¹⁰⁴ that they will not speak poorly of Christianity, that Jews who proselytize Christians (and Christians who convert to Judaism) will be executed,¹⁰⁵ and that Jews who have sex with Christians will likewise be put to death.¹⁰⁶ Thus, parts of the *Siete Partidas* reveal a markedly anti-Jewish tone.

¹⁰² Cohen, Mark R., *Under Crescent and Cross: The Jews in the Middle Ages* (Princeton University Press, 1994), 172.

¹⁰³ *Las Siete Partidas*, 7, 24, 2: “Otro si defendemos que el dia del viernes santo ningunt judio non sea osado de salir de su barrio, mas que esten hi encerrados fasta el sabado en la manana, et si contra esto ficieren, decimos que del dano o de la deshonra que de los cristianos recibieren estonce non deben haber emienda ninguna.”

¹⁰⁴ *Ibid*, 7, 24, 11.

¹⁰⁵ *Ibid*, 7, 24, 2.

¹⁰⁶ *Ibid.*, 7, 24, 9.

However, this section of the *Siete Partidas* also contains many passages that are relatively tolerant of Jews and accord them many essential legal protections, rights, and privileges. Alfonso states that Jews have the right to worship without hindrance in their synagogues¹⁰⁷ and mandates that Jews who convert to Christianity are entitled to full participation in the Castilian Christian community.¹⁰⁸ More importantly, Alfonso lists several legal guarantees that will allow the Jews not only to maintain their religion, but also fully practice it in accord with their beliefs:

Saturday is the day in which the Jews make their prayers and remain in their lodging, and they do not work nor conduct business. And because they are bound to uphold this [practice], according to their law, no man should attempt to bring them to court during it And if anyone is so bold and forceful as to rob one of the Jews [without seeking redress in the courts], they will return double [the amount that they took].¹⁰⁹

This exemption from Christian interference on the Jewish sabbath certainly contradicts the grudging toleration presented earlier. Besides these guarantees that the Jews have the freedom to practice their religion, Alfonso later emphatically opposes any sort of forced conversion to Christianity:

Neither force nor pressure should be applied in any manner to a Jew in order to make him turn Christian, but with good deeds, and with the words of the holy scriptures and with kindness should the Christians convert him to the

¹⁰⁷ *Ibid.*, 7, 24, 4.

¹⁰⁸ *Ibid.*, 7, 24, 6.

¹⁰⁹ *Ibid.*, 7, 24, 5: “Sabado es dia en que los judios facen sus oraciones et estan quedados en sus posadas, et non se trabajan de facer merca nin pleyto ninguno. Et porque tal dia como este son ellos tenudos de guardar, segunt su ley, non les debe ningunt home emplazar nin traer a juicio en el Et si alguno fuere atrevido et forzare o robare alguna cosa dellos, debegela tornar doblada.”

faith of our lord Jesus Christ; for our lord God does not want nor does he love service that is given through force.¹¹⁰

Alfonso clearly specifies that the Jews are to be free from all sorts of potential Christian coercion toward conversion. Here also, Alfonso adopts a very tolerant attitude toward Jewish religious belief that seems to contradict his earlier statements.

Alfonso X's description of the Muslims is a more negative one, but many similarities remain. Because of these similarities, I will here present the section of the *Partidas* that concerns Muslims¹¹¹ before analyzing the passages' significance together. Like the Jews, Alfonso begins by defining the Muslim, though here the tone is more clearly negative:

The Moors are a type of people who believe that Mohammed was the prophet and messenger of God: and because the works and deeds that he did failed to show themselves to be of such great sanctity ... their law is like an insult to God.¹¹²

Alfonso then refers to the earlier statements concerning Jewish freedom of worship to endorse a similar religious freedom for subject Muslims, though again Alfonso's overall tone

¹¹⁰ *Ibid.*, 7, 24, 6: "Fuerza nin premia non deben facer en ninguna manera a ningunt judio porque se torne cristiano, mas con buenos exemplos, et con los dichos de las santas escripturas et con falagos los deben los cristianos convertir a la fe de nuestro senor Jesucristo; ca nuestro senor Dios non quiere nin ama servicio quel sea fecho por fuerza."

¹¹¹ The word Alfonso employs in this section is *moros*, which literally translated means "Moors" rather than "Muslims." The meaning in this case is the same, since Alfonso would understand all Muslims living in the Iberian peninsula to be Moors also. I use the word Muslim to emphasize that the difference between the Christian and Moorish communities is fundamentally a religious one; a Moor could convert to Christianity (and no longer be considered a Moor), or a Christian could convert to Islam and "turn" Moor.

¹¹² *Las Siete Partidas.*, 7, 25: "Moros son una manera de gentes que creen que Mahomat fue profeta et mandadero de Dios: et porque las obras et los fechos que el fizo non muestran del tan grant santidat ... por ende la su ley es como denuesto de Dios."

is more negative than when he discusses the Jews. Alfonso writes:

And we say that the Moors ought to live among the Christians in the same manner that we stated in the previous *titulo* about how it should be done with the Jews, keeping their law and not insulting ours. But in the towns of the Christians the Muslims should not have mosques, nor make their public sacrifices before men: and the mosques that they had in ancient times should go to the king, and he is able to give them to whomever he wishes.¹¹³

Thus, the Muslims are more truly “suffered” to live among the Christians than are the Jews.

Concerning the freedom of religious choice, Alfonso repeats his statements that inducing forced conversions is unacceptable. Here again, however, Alfonso slightly changes the way that he phrases the statements to portray Muslims in a more negative light than the Jews:

With kind words and amenable actions should the Christians work to convert the Moors and make them believe our faith and lead them to it, and not through force nor through pressure; for if the will of our Lord God brings them to it and makes them believe it through force [it is acceptable] ... but He is not pleased by the service of fearful men, but of that which is made through grace and without any pressure.¹¹⁴

Alfonso adds that no one may discourage a Muslim from converting to Christianity if he should wish to do so.¹¹⁵ Overall, however, the Muslim communities receive fewer delineated

¹¹³ *Ibid.*, 7, 25, 1: “Et decimos que deben vevir los moros entre los cristianos en aquella misma manera que diximos en el titulo ante deste que lo deben facer los judios, guardando su ley et non denostando la nuestra. Pero en las villas de los cristianos non deben haber los moros mezquita, nin facer sacrificios publicamente ante los homes: et las mezquitas que habien antiguamente deben seer del rey, et puedelas el dar a quien quisiere.”

¹¹⁴ *Ibid.*, 7, 25, 2: “Por buenas palabras et convenibles predicaciones se deben trabajar los cristianos de convertir a los moros para facerles creer la nuestra fe et para adocirlos a ella, et non por fuerza nin por premia; ca si voluntad fuese de nuestro senor Dios de los adocir a ella o de gela facer creer por fuerza ... mas el non se paga del servicio quel facen los homes amidos, sinon de aquel que lo face de su grado et sin premia ninguna.”

¹¹⁵ *Ibid.*

rights than the Jews do in the *Siete Partidas*.

Interestingly, though Alfonso devotes more space to the Muslims than the Jews, most of the *titulo* concerns itself with delimiting and strongly defending the boundaries between Christians and Muslims. Alfonso prescribes the same death penalty for inter-religious sexual activity,¹¹⁶ and again denounces Christians who convert to Islam because of despair or insanity.¹¹⁷ Two sections of the *titulo*, however, again demonstrate Alfonso's profound concern with his own Castilian kingdom. The social privileges and economic opportunities afforded to Christian Castilians (and denied to Muslims) provided pragmatic incentives for conversion. Yet Alfonso clearly recognizes that Christians' intimidation of local Muslims hinders many from converting. As Alfonso describes it:

Many men live and die in strange beliefs that would love to be Christians, if not for the insults and the dishonor that they see given in word and deed to the others who have turned Christian, being called "turncoats," and profaning them in other great and disgusting ways.¹¹⁸

Alfonso here recognizes (and later writes against) the condemnation that a Muslim would likely receive from "native" Christians should he convert to Christianity. The second example of Alfonso's clear concern with the unique, Castilian context comes in the caveat he adds about those who convert away from Christianity. In the fourth *ley*, Alfonso writes

¹¹⁶ *Ibid.*, 7, 25,10.

¹¹⁷ *Ibid.*, 7, 25, 4. Alfonsine texts consistently assume some form of mental illness, usually temporary insanity, to be present in a Christian who would convert to Judaism or Islam.

¹¹⁸ *Ibid.*, 7, 25, 3: "Viven et mueren muchos homes en las creencias extranas que amarien seer cristianos, sinon por los aviltamientos et las deshonoras que veen recebir de palabra et de fecho a los otros que se tornan cristianos, llamandolos tornadizos, et porfazandolos en otras muchas maneras de denuestos."

that the Christian who converts to Islam or Judaism but then repents will either die or live in disgrace and dishonor, without the king's protection or justice.¹¹⁹ However, Alfonso amends that statement shortly thereafter:

It may be that someone of those who has renounced the Catholic faith and turned Moor, works to perform some great service to the Christians, that he turns to the great benefit of the land: and because the men that will work to do such a good should not be unrewarded, we hold it good and command that they be released and pardoned from the penalty of death that we promulgated in the fourth *ley*.¹²⁰

Alfonso understands the reality of conversion in this religious milieu, and so provides the monarchy with the opportunity to pardon those who it wishes depending on their service to the crown. As I will describe below, scholars have argued that the emphasis on the boundaries between religious groups only emphasizes the real intermingling that did take place, and so here Alfonso attempts to turn the reality of religious boundary-crossing to his advantage.

The Alfonso who discusses the religious minorities in his kingdom certainly seems to be one who understands the complexities of religious difference in medieval Castile. The historical context of the violence of the reconquest,¹²¹ the significant numbers of Muslims

¹¹⁹ *Ibid.*, 7, 25, 5.

¹²⁰ *Ibid.*, 7, 25, 8: "Contescer podrie que algunos de los que renegasen de la fe catolica et se tornasen moros, se trabajarien de facer algunt granado servicio a los cristianos, que se tornaria en grant pro la tierra: et porque los homes que se trabajaren de facer tal bien como este sobredicho non finquen sin gualardon, tenemos por bien et mandamos que les sea quita et perdonada la pena de la muerte que diximos en la quarta ley ante desta."

¹²¹ Bartlett, 141.

living in conquered territories,¹²² and the high numbers of Muslim slaves in the Iberian peninsula¹²³ help explain the more negative tone Alfonso adopts when describing the Muslims. During Alfonso's reign, however, expulsion was not a practical option and there is no evidence that Alfonso ever contemplated such an action. The Castilian monarchy would have to facilitate the assimilation of the Muslim population, and without the basic rights Alfonso accords them, the *convivencia* about which historians have written so much could not have been sustained. From this perspective, the restrictions on Christian-Muslim interactions seem to be the product of Alfonso's pragmatism; the enforced religious boundaries allowed the two communities to coexist with some level of peace. It is this emphasis on boundary creation that explains the sections of the *Siete Partidas* concerning sexual relationships across religions. Alfonso's stipulations about the Jews wearing distinctive clothing, for example, come from the Fourth Lateran Council's decision to force Muslims and Jews to appear physically different from Christians so as to prevent sexual misidentification; the boundaries Alfonso creates in the *Partidas* (that the modern reader views negatively) are "visual representations of a sexual boundary not to be transgressed."¹²⁴

In any case, the historical context also provides valuable insight into the motivations for Alfonso's more positive treatment of the Jews. On the most general level, these passages from the *Siete Partidas* reflect Alfonso's medievalism in their replication of canon law

¹²² Hillgarth, 32.

¹²³ *Ibid.*, 87. Hillgarth notes that slave levels in Castile dropped sharply following the end of the major Christian military campaigns in 1260.

¹²⁴ Nirenberg, David, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1996), 133.

pertaining to the Jews. The focus on separating Jews and Christians through identifying marks and other segregation comes directly from the church's ecumenical councils.¹²⁵ Alfonso also had his own particular reasons to support canon law in this part of the *Partidas*. From a strictly pragmatic perspective, Alfonso used the Jews of Spain as the primary sources of revenue for the crown. The Jews' status as a protected minority finds consistent support in canon law, where Innocent IV and other popes affirm the toleration of the Jews' existence in Christendom.¹²⁶ Since the king is nominally responsible for justice in his kingdom, European monarchs often became the most prominent protectors of Jewish communities. The Jews' protection under the authority of the king has parallels in Sicily and other European monarchies, though not always with the extensiveness of the Castilian case.¹²⁷ Benzion Netanyahu provides an extremely cogent analysis of the situation in and immediately after Alfonso X's reign. According to Netanyahu, the Jews derived most of their power in Castile from their financial occupations managing royal finances and collecting the vast majority of royal taxes. Empowered by the king to collect taxes from Christians, Jewish tax farmers provoked anger and protests from the local Christian population. The Castilian monarchy, however, remained intransigent, leading to escalating resentment toward and violence against the Castilian Jews.¹²⁸ Thus, Alfonso had significant

¹²⁵ Grayzel, Solomon, "Jews and the Ecumenical Councils," *The Jewish Quarterly Review*, New Ser., v. 57 (1967), 295-300.

¹²⁶ Muldoon, James, *Popes, Lawyers, and Infidels* (Philadelphia: University of Pennsylvania Press, 1979), 30-31.

¹²⁷ Cohen, 47-48.

¹²⁸ Netanyahu, Benzion, *The Origins of the Inquisition in Fifteenth Century Spain* (New York: Random House, 1995), 71.

financial incentives to protect Spanish Jews in his kingdom.

Alfonso X did not only view the Jews positively because of their wealth, however. Because of their long roots in the Iberian peninsula, under Visigothic, Muslim, and then medieval Christian rule, Iberian Jews developed an impressive culture with remarkable achievements in literature, law, philosophy and theology.¹²⁹ Alfonso recognized the value of Jewish scholarship and so patronized many learned Jews in both scholarly and administrative posts. As astronomers, physicians, and philosophers, Castilian Jews held positions of great respect and exercised considerable advisory influence over Alfonso X and his son.¹³⁰ Consequently, Alfonso's personal interaction with and patronage of learned Jews also explains why aspects of the *Siete Partidas* appear so positive in their portrayal of Jews. One should also note that though Alfonso has here replicated precepts about the Jews that have parallels in other areas of Europe,¹³¹ he has also omitted equally important sections of canon law about the Jews that would threaten his own situation. Thus, Alfonso does *not* include the Fourth Lateran Council's statement that Jews may not hold any public office (a problem for a king who relied on the Jews for fiscal administration),¹³² instead noting only that they may not hold a position enabling them to unfairly oppress Christians.¹³³ Alfonso's

¹²⁹ Roth, Norman, *Conversos, Inquisition, and the Expulsion of the Jews from Spain* (Madison: The University of Wisconsin Press, 2002), xi. Roth here seriously exaggerates his claims, but the underlying claim is accurate.

¹³⁰ Baer, Yitzhak, *A History of the Jews in Christian Spain*, v. 1 (Philadelphia: The Jewish Publication Society of America, 1961), 120-21.

¹³¹ Cohen, 43-49.

¹³² Grayzel, 298.

¹³³ *Las Siete Partidas*, 7, 24, 3.

positive portrayal of the Jews thus supports ecclesiastical regulations and his own desires.

Contextualization also helps to explain Alfonso's insistence that the Jews remain barricaded in their dwellings on Good Friday, and that the king will not be held responsible for damage done to Jews who leave their quarter during that time. The most important aspect of this provision is that Holy Week's ritual violence, often involving stoning, was also a fundamentally anti-monarchical activity because of the close relationships that the Jews possessed with the king, as described above. Thus, Christians blamed Jews when they disliked royal policy, and vice versa. The Holy Week violence helped stabilize the building resentment against the king's Jews by providing the population with the opportunity to protest against the king with fewer significant consequences. Even ritual violence against the Jews during Holy Week implied criticism of the monarchy. Attacking the protected property of the king demonstrated his inability to protect the Jews, and consequently weakened the royal power structure.¹³⁴ Thus, the Holy Week violence represented an opportunity for locals, particularly clergy and local elites, to oppose the king without suffering the consequences of open rebellion against the monarchy itself. Nirenberg also convincingly argues that as part of a "reenacting of foundational historical narratives," the Holy Week violence of which Alfonso is clearly aware further defines the boundaries that enable Jews to exist within the Christian community.¹³⁵ Therefore, when Alfonso refuses to provide unlimited protection for Jews during Holy Week, he again suggests that he is aware of the details of Jewish life in Castile during his reign. From a pragmatic perspective,

¹³⁴ Nirenberg, 221-222.

¹³⁵ *Ibid.*, 228.

Alfonso knows that he cannot fully protect the Jews from mob violence during Holy Week, and so they must remain barricaded within their quarter where the ritualistic violence Nirenberg describes will (hopefully) not cause too much damage.

As I conclude this analysis, I anticipate two major objections to my arguments. The first, broader objection, is that laws are notoriously difficult sources when one tries to link them to specific events to which they are supposed to respond. To explain laws through reference to specific events is to assume too much, particularly when neither Alfonso nor his immediate successors promulgated the *Siete Partidas* as law. However, Susan Reynolds notes that “difficult decisions of principle are seldom made before practical controversies make them necessary,”¹³⁶ and I do believe that explaining these passages from the *Siete Partidas* in terms of their historical context (rather than the exceptional enlightenment of Alfonso X) provides the best explanation for the wording of those passages. It also allows me to ascribe authorial oversight to the monarch—Alfonso acting as an “active general editor” (see above)—rather than explain particular passages as the product of another author, as some scholars do.¹³⁷ Though the laws of the *Siete Partidas* provide only one avenue into understanding Alfonso’s reign, I find that they help better understand the history of this “learned king.”

The second objection I anticipate here concerns the scope of this thesis. Alfonso X’s *Las Siete Partidas* encompass three to five volumes, depending on the edition, and they

¹³⁶ Reynolds, Susan, *Kingdoms and Communities in Western Europe, 900-1300* (Oxford: Clarendon Press, 1984), 48.

¹³⁷ Roth, 48.

cover a huge variety of topics about which I have said nothing in my analysis. Huge sections of the first *Partida*, in particular, contain little evidence for the recontextualization I support, and one might consequently argue that I am extrapolating Alfonso's intense involvement with the particulars of his Castile from a few brief passages of a work that, taken as a whole, does not demonstrate the same concern. I approach this objection from two angles. First, to reverse partially my earlier claim, Alfonso's role as an "active general editor" means that he did not copy each line of the *Siete Partidas* himself. His involvement as editor makes it likely that he ordered substantial sections of the *Partidas* to be copied from canon, Roman, or Visigothic law and made corrections and emendations as he saw it necessary. This sort of intervention by Alfonso appears especially likely considering that the *Partidas* themselves are an amended reproduction of Alfonso's own earlier legal treatises.¹³⁸ Analyzing those emendations, then, represents the best way to analyze Alfonso's own attitude and attempt to distill it partially from the material reproduced from earlier sources. My second response to this objection is to point out simply that my argument does not seek to rehabilitate Alfonso X to the point of making him a master of Machiavellian *realpolitik* or other such nonsense. I agree with the modern historiography that Alfonso X was comparatively "visionary" and that his attempts to consolidate royal power into a unified Iberian kingdom do make him a pivotal figure in the history of Iberian unification. I argue here only that my evidence supports a reinterpretation of Alfonso X perhaps not only as a visionary icon paving the way toward the modern nation-state, but also as a very medieval and very Castilian king as well.

¹³⁸ O'Callaghan, "Alfonso X and the *Partidas*," xxxiv.

Conclusion

In some ways, even the existence of the *Siete Partidas* (or its earlier incarnation as the *Especulo*) serves as some testament to Alfonso X's concern with Castile. As Magnus Ryan argues, the king's role as lawgiver in many ways represents the quintessential quality expected of the medieval monarch.¹³⁹ Thus, while a monarch truly concerned with unifying the Iberian peninsula and creating a modern nation-state might spend his energy on physical unification first and theoretical unification second, Alfonso's medieval nature leads him to create three comprehensive legal codes, culminating in the *Siete Partidas*. Also, Susan Reynolds's exceptional *Kingdoms and Communities in Western Europe* convincingly argues that not only taxation, but even lawmaking itself required communal involvement for its success.¹⁴⁰ While scholars like Burns (see above) have argued that it is Alfonso's failure to respect these communal power bases that led to the rebellions and insurrections against his rule, the evidence here shows that Alfonso does have a concern with his populace. Alfonso's awareness of the importance of consensus reflects both his medieval and his Castilian character.

For many historians, Alfonso was such a visionary and was so far ahead of his time that he was ineffective as a ruler and could not fathom the concerns of Castile while patronizing his court's many cultural achievements and seeking the crown of the Holy

¹³⁹ Ryan, Magnus, "Rulers and Justice, 1200-1500," in Linehan, Peter, and Janet L. Nelson, *The Medieval World* (New York: Routledge, 2001), 503.

¹⁴⁰ Reynolds, 45.

Roman Empire. The *Siete Partidas*, however, show evidence of Alfonso's concern with medieval Castile itself. In three distinct areas, Alfonso X's *Las Siete Partidas* provide evidence that casts some doubt on the standard historiographical portrayal of Alfonso as "the learned king."

In his treatment of the sources of legal authority, Alfonso does borrow heavily from canon law, Roman law, and local Visigothic law. He accepts the long-held ideas of custom and usage, but combines them and supercedes them with the fundamentally Iberian concept of the *fuero*. The *Siete Partidas*'s discussion of the *fuero* is a principle that helps demonstrate Alfonso's need to balance his desire to create a unified kingdom where he has no equal with the fiercely-guarded autonomy that Iberian communities guard to the present. The terminology of the *Siete Partidas*, from its inception, suggests that Alfonso understands the medieval Castilian situation and attempts to coopt it for his own needs as ruler.

In his discussion of the church and the papacy, Alfonso also strikes a balance between his desires and his needs. The vast majority of the legislation regarding the church repeats canon law from the Justinianic canon, but Alfonso's subtle modifications cause a significant shift in the power structures that the *Partidas* describe. Alfonso merely seeks the power to confirm new bishops in their dioceses, and then proceeds to frame that power broadly enough that a loose interpretation would give him the legal basis for a significant influence over the Castilian church. Even more telling, Alfonso rationalizes this power over the Iberian church as a legitimate reward because of the Castilian monarchy's actions that have aided the church, by reconquering territory previously held by the Muslims. It is the particular context of medieval Castile that Alfonso himself uses to justify his claims for authority and oversight

of the Castilian church. This balance makes sense in its historical context, as Alfonso requires the support of the papacy and particularly of the Castilian church both for financial support and the military support they can provide through crusading indulgences and other spiritual motivations.

Finally, Alfonso's treatment of religious minorities also shows his concern with medieval Castile. Alfonso accords both Jews and Muslims living in Castile basic religious freedoms, including the freedom to practice their own religion or convert to Christianity without stigma, and in the case of the Jews further extends their freedoms in several ways. However, Alfonso also includes passages mandating extreme punishments for crossing social boundaries, such as the death penalty for inter-religious sexual activity, and reproduces some of the most vicious calumny from popular medieval folklore. Here, also, the passages in the *Siete Partidas* may be explained best as the product of Alfonso's balancing of royal desires and Castilian reality. Alfonso needed a stable community of Jews and (to a lesser extent) Muslims to rule effectively and administer his kingdom, but he also recognized that opposition to royal policies would invariably manifest itself through violence against those minorities. As such, these sections of the *Siete Partidas* incorporate material designed to placate a variety of readers while providing the monarchy with enough latitude to govern effectively.

In my study of history, I have yet to find proof that anyone can completely transcend his own historical context. Alfonso X was indeed a visionary, but he was also a fundamentally medieval emperor. In this analysis of the *Siete Partidas*, I hope to have suggested that a recontextualization of Alfonso X might provide a better understanding of

his motivations. To be perfectly clear, I am not denying that Alfonso X was a remarkable intellectual who anticipated many aspects of modern political theory; I argue only that this perspective might not tell the whole story. It is not enough to consider the cultural and intellectual aspects of the “learned king,” when some of his most enlightened thought appears in law codes designed to regulate the daily affairs of his own Castilian kingdom.

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